

DOCKET NO: 203744US6



IN THE UNITED STATES PATENT & TRADEMARK OFFICE

IN RE APPLICATION OF :
TETSUO MAEDA : EXAMINER: DAVIS, DAVID DONALD
SERIAL NO: 09/585,870 :
FILED: JUNE 1, 2000 : GROUP ART UNIT: 2652
FOR: DISC DRIVE AND OPTICAL DISC :
DRIVE

PRE-APPEAL BRIEF REQUEST FOR REVIEW

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicant requests review of the Final Rejection in the above-identified application.
No amendments are being filed with this request. This request is being filed with a Notice of Appeal. The review is requested for the reasons stated on the attached sheets. No more than five (5) pages are provided.

I am the attorney or agent of record or acting under 37 C.F.R. § 1.34.


Respectfully submitted,

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REMARKS ACCOMPANYING PRE-APPEAL BRIEF REQUEST FOR REVIEW

COMMISSIONER FOR PATENTS
ALEXANDRIA, VIRGINIA 22313

SIR:

Applicant respectfully requests that a Pre-Appeal Brief Conference be initiated in accordance with the pilot program outlined in the Official Gazette Notice of July 12, 2005.

FAILURE TO PRESENT A *PRIMA FACIE* CASE OF OBVIOUSNESS

Applicant submits that the Official Action of July 13, 2005 fail to provide a *prima facie* case of obviousness with respect to Claims 1-37 under 35 U.S.C. § 103¹. Pending claims 1-37 stand rejected under 35 U.S.C. § 103 in view of Tsai and Ishimatsu.

The independent claims recite, in part, four receiving portions adapted to receive support for a base, the receiving portions being disposed symmetrically on the base with respect to a center line of the base and on four corners of the base. The independent claims further recite four supporting means disposed in the four receiving portions, the supporting means include a support piece and an adjusting piece adapted to adjust an elasticity of the support piece.

Tsai is directed to a tilt angle adjusting mechanism for a compact disc recording/reproduction device. For example, as shown in Figure 1 of Tsai, several shock-

¹ See Official Action of July 13, 2005 detailing the rejection of Claims 1-37 under 35 U.S.C. § 103 based on U.S. Patent 5,982,735 to Tsai in view of U.S. Patent 5,956,314 to Ishimatsu.

absorbing elements 18 are attached to a base 10 for protecting a pick-up head 20 and the disc from mechanical shocks.² Supporting arrangements 50 are provided to adjust a vertical position of a rod 40 to adjust the angle of the pick-up head.

The Office Action asserts that Figure 7 shows supporting arrangements disposed in four receiving portions 5. It is unclear from the outstanding Office Action what disclosure of Tsai is considered to be the four receiving portions and the four supporting means. That is, the Office Action discusses the shock absorbing elements 18 and also discusses the four receiving portions 5 in Figure 7. Perhaps the Office Action is discussing element 50 shown in Figure 7 as there is no element 5 shown in Figure 7. Either way, Applicant respectfully disagrees with the Office Action's interpretation of the teachings of Tsai.

Further, the Office Action asserts in the last three lines of page 2 that in Tsai "At least one of the four supporting arrangements includes a support piece 52 and an adjusting piece 53 adapted to adjust an elasticity of support piece 52." However, the Office Action additionally admits on page 3 lines 6-7 that "Tsai is additionally silent as to an adjusting piece to adjust an elasticity of the support piece." Then, the Office Action on page 3 line 10 relies on Ishimatsu to disclose "an adjusting piece, including spring 105."

As such, the Office Action has not clearly developed and set forth the teachings relied upon in the applied art for the features discussed above with respect to the independent claims. That is, it is unclear what elements from what applied art are combined to arrive at the structure of the supporting means recited in the claims and set forth in the specification.

Ishimatsu et al. discloses that the shock-absorbing device 101 includes tubular member 102 and a spring 103. Lateral sides of member 102 are made up of wall sections 104a, 104b facing the hollow section 105 and are formed with lugs 108, 109 for preventing the compression spring 103 from being detached accidentally. The tubular member is mounted within a through-hole 107 formed in a lateral side of chassis 3.

² Column 2, lines 29-31.

Again, it is unclear from the text of the Office Action, what the adjusting piece spring 103 of Ishimatsu is added to in Tsai. However, if the spring is added to the shock absorbing elements 18, there is nothing in either Tsai or Ishimatsu, nor in the general level of skill in the art, to support that adding the adjusting piece of Ishimatsu would improve the shock absorbing elements 18 of Tsai. Only the shock absorbing elements 18 themselves are attached to the base 10 for protecting the pick-up head 20 and the disc. Clearly, Tsai teaches that the shock absorbing elements 18 are fully sufficient to accomplish their stated purpose which is to protect the pick-up head 20 and the disc from mechanical shock. Additionally, there is not clear showing that the resulting structure of the combination would correspond to the structure of the four supporting means as set forth in the specification and as recited in the independent claims.

Alternatively, if the Office Action combines the adjusting piece spring 103 of Ishimatsu to the supporting arrangement 50, there is still a clear lack of motivation to combine. The supporting arrangements 50 include a support piece 52 and an adjusting piece (screw) 53 adapted to adjust an elasticity of support piece 52. However, as best shown in Fig. 2, the supporting arrangements 50 are located on an interior portion of base 10 and are not located in the corner of the base receiving the receiving post portions 18. Additionally, the supporting arrangements 50 do not provide support for the base 10, but instead are used to adjust the vertical position of the rod 40 to adjust the angle of the pick-up head. Accordingly, figures 6 and 7 of Tsai teach that after mounting the second guiding rod 40 in the support 50, the vertical position of the rod 40 is determined by adjusting the screw 53. Once an optimum position of the adjustment screw 53 has been found, glue is inlet through the opening 562 into the grooves 571 of the hole 57 to fix at the optimum position.

If the spring 103 of Ishimatsu is added to the support piece 50, there is no advantage that would be obtained by modifying support piece 50 with the spring of Ishimatsu. That is, Tsai already teaches that the support piece 50 includes a spring 52. There is no need for a second spring. Additionally, Tsai teaches that the second guiding rod 40 is fixed in the support 50. The

screw 53 holds the end of the second guiding rod 40 from above while the spring 52 presses from below. Once an optimum position of the adjustment screw 53 has been found, glue is inlet through the opening 562 into the grooves 571 of the hole 57 to fix the optimum position. Accordingly, the support 50 of Tsai is fixed by glue and no longer requires adjusting once an optimum position is determined. That is, adding an additional adjusting piece, such as that of Ishimatsu, to Tsai would render the support 50 of Tsai unfit for its intended purpose, which is to be fixed in place.

Accordingly, Applicant respectfully asserts that there is no motivation to combine the teachings of Tsai and Ishimatsu et al. In fact, Applicant respectfully asserts that only the present application suggests the claimed combination of features.

CONCLUSION

Based on the above discussed deficiency of not setting forth the teachings relied upon in the applied art for the features recited in the independent claims and as set forth in the specification, and for the lack of motivation to combine the applied references, Applicant respectfully requests that the prosecution be re-opened so that Applicant can readily judge the Examiner's position as to the current grounds for rejection or the advisability of preparing a traditional Appeal Brief.

Respectfully submitted,
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